

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**December 11, 1997**

DIVISION ONE

B110693 People v. Flores (Not for Publication)

The judgment is affirmed.

Vogel (Miriam A.), Acting P.J.

We concur: Masterson, J.  
Dunn, J. (Assigned)

B108699 People (Not for Publication)  
v.  
Scott

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Masterson, J.

B109529 People (Not for Publication)  
v.  
Sean Patrick B.

The matter is remanded for the trial court to declare orally whether counts 1 and 2 are felonies or misdemeanors. Should both counts be declared felonies, the trial court is to set the maximum term at 4 years, 8 months. In all other respects, the judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.  
Dunn, J. (Assigned)

## DIVISION ONE (Continued)

B102576 People (Certified for Partial Publication)  
v.  
Landa

On appeal, the judgment is vacated. The matter is remanded to the trial court for a new in camera hearing as to disclosure of Officer Duffy's observation location, with the witness under oath. If the trial court determines the location is immaterial, it is to reimpose judgment. In that event, the abstract of judgment is to be corrected to reflect imposition of a restitution fine and a lab fee. If the trial court determines the location is material, it is to strike Officer Duffy's testimony and enter a judgment of acquittal based on insufficiency of the evidence. On habeas corpus, an order to show cause is issued returnable before the trial court, which is to conduct an evidentiary hearing, unless the result of the in camera hearing as to location renders the habeas petition moot.

Ortega, J.

We concur: Spencer, P.J.  
Dunn, J. (Assigned)

[illegible]

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Masterson, J.

DIVISION ONE (Continued)

B109699      Barbagelata                      (Not for Publication)  
                 v.  
                 Gold

The judgment is reversed and the cause is remanded to the trial court with directions to place the matter on track for trial. The parties are to pay their own costs of appeal.

Vogel (Miriam A.), J.

We concur:    Spencer, P.J.  
                 Ortega, J.

DIVISION THREE

B110373      Armando Anthony Perez                      (Not for Publication)  
                 v.  
                 Desiree Anne O'Brien

The order sustaining Desiree's demurrer and granting her motion to strike is reversed and the cause is remanded for further proceedings consistent with the views expressed herein. Costs on appeal to plaintiff.

Croskey, J.

We concur:    Klein, P.J.  
                 Aldrich, J.

DIVISION FOUR

Court convened at 9:00 A.M.

Present: Vogel (C.S.), P.J., Hastings, J., Baron, J., and Jim Guzman, Deputy Clerk.

Each of the following:

B109348 People v. Joon Young K.  
B107125 People v. Teran  
B107589 People v. Legnon  
B105669 Prime Pacific Investment v. Massumi

Argument waived, cause submitted.

DIVISION FOUR (Continued)

B104855     People  
              v.  
              Jones

Merits:

Argued by Charles J. McLurkin for appellant and by Kent J. Bullard for respondent. Cause submitted.

B111025     Steinfeld  
              v.  
              Foote-Goldman

Merits:

Argued by Charlotte E. Costan for appellant and by Glenn Cornell for respondent. Cause submitted.

B107920     Roberts  
              v.  
              Bennett

Merits:

Argued by Carol F. Anderson for appellant and by Edward J. Horowitz for respondents. Parties ordered to file letter brief. Appellant's brief due in 15 days and respondent's brief 15 days thereafter, then cause to be submitted.

B099500     Richter  
              v.  
              Garfinkle

Merits:

Argued by Ronald D. Dessy for appellants and by V. Blair Shanbazian for respondents. Cause submitted.

DIVISION FOUR (Continued)

B114035     Truck Insurance Exchange  
              v.  
              Superior Court of Los Angeles  
              (Transco, r.p.i.)

Merits:

Argued by Christine Baran for petitioner and by Karen-Denise Lee for real party in interest. Cause submitted.

B105935     Travelers Indemnity Co.  
              v.  
              R.A.M.

Merits:

Argued by Alan D. Sarvas for appellant and by Brad Kuenning for respondent (Schrader Martinez Construction), Eric A. Amador for respondent (Thompson Research Associates) and Alan J. Gradwohl for respondent (Steven Foster Construction). Cause submitted.

Court recessed.

The Court reconvened at 1:30 P.M.

Present: Vogel (C.S.), P.J., Hastings, J., Baron, J., and Jim Guzman, Deputy Clerk.

Each of the following:

B103033 People v. Munoz  
B105068 People v. Evans  
B105836 People v. Blackburn  
B096941 Kurta v. Kurta

Argument waived, cause submitted.

DIVISION FOUR (Continued)

B106052     People  
              v.  
              Howard

Merits:  
Argued by Allen Weinberg for appellant and by Juliet H. Swoboda for  
appellant. Cause submitted.

B111551     Andrews  
              v.  
              Board of Retirement of Los Angeles County

Merits:  
Argued by Lawrence D. Rohlfing for appellant and by John M. Baskett for  
respondents. Cause submitted.

B107466     Gonzalez  
              v.  
              City of Huntington Beach

Merits:  
Argued by Humberto Guizar for appellant and by Robert W. Paul for  
respondent. Cause submitted.

B108967     Lee  
              v.  
              Wong

Merits:  
Argued by Kay Otani for appellants and by Edwin D. Hausmann for  
respondents. Cause submitted.

## DIVISION FOUR (Continued)

B111013      Diediker  
v.  
Peellle Financial Corporation

Merits:  
Argued by Anya Stanley for appellants and by Stephen E. Anderson for respondent. Cause submitted.

B107897      GST Enterprises  
v.  
Monzon

Merits:  
Argued by Gregory F. Stannard for appellant and by John S. Curtis for respondent. Cause submitted.

Court adjourned.

B093741 People (Not for Publication)  
v.  
Hurd

The judgment is affirmed.

Baron, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

[illegible]

The judgment is affirmed.

Baron, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B105484     Cameron  
                 v.  
                 Strait

Merits:

Argued by Wendy C. Lascher for appellant and by C. Michael Cooney for respondent. Submission deferred pending possible supplemental briefing.

B111841     Caldwell  
                 v.  
                 Simi Valley Unified School District

Merits:

Argued by Lois B. Carlton for appellant and by Richard A. Shimmel for respondent. Cause submitted.

B111645     Stein  
                 v.  
                 Dept. of Motor Vehicles

Merits:

Argued by Janet E. Burns, Deputy Attorney General, for appellant and by Steven R. Andrade for respondent. Cause submitted.

B104981     Adams  
                 v.  
                 Bernacchi

Merits:

Argued by James H. Zander for appellant and by J. Alan Frederick for respondent. Cause submitted.

Court recessed at 10:35 A.M.

DIVISION SIX (Continued)

Court reconvened at 10:45 A.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B109564     Otis  
               v.  
               Barnett

Merits:

Argued by Charles S. Bargiel for appellant and by Andrew M. Wolf for respondent. Cause submitted.

B109596     Otis  
               v.  
               Homestead Insurance Co.

Merits:

Argued by Charles S. Bargiel for appellant and by Andrew M. Wolf for respondent. Cause submitted.

Court recessed at 11:40 A.M.

Court reconvened at 1:30 P.M.

Present: Stone, P.J., Gilbert, J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

Each of the following:

B075106 People v. Lopez  
B107182 People v. Becerra  
B107627 People v. Diaz  
B108569 People v. Rodrigues  
B108993 People v. Montoya  
B109511 People v. Cruz  
B110489 People v. Pauley  
B110843 People v. Carrillo  
B111386 People v. Thompson  
B112277 People v. Andrade  
B112728 People v. Cloward

Argument waived, cause submitted.

DIVISION SIX (Continued)

B109571     People  
              v.  
              Dennis

Merits:  
Argued by Gilbert Lentz for appellant and argument waived by respondent.  
Cause submitted.

B109585     People  
              v.  
              Carmichael

Merits:  
Argued by James L. Crowder for appellant and by David Andrew Eldridge,  
Deputy Attorney General, for respondent. Cause submitted.

B108832     People  
              v.  
              Ashley

Merits:  
Argued by Jean F. Matulis for appellant and by David Andrew Eldridge,  
Deputy Attorney General, for respondent. Cause submitted.

B110243     People  
              v.  
              Douglas

Merits:  
Argued by Gerald McC. Franklin, Deputy Attorney General, for appellant  
and by Michael C. McMahon, Assistant Public Defender, for respondent.  
Cause submitted.

DIVISION SIX (Continued)

B104899     People  
              v.  
              Andrews

Merits:  
Argued by Susan Pochter Stone for appellant and by James G. Root,  
Deputy Attorney General, for respondent. Cause submitted.

B108442     People  
              v.  
              Ortiz

Merits:  
Argued by Jerry D. Whatley for appellant and by David Andrew Eldridge,  
Deputy Attorney General, for respondent. Cause submitted.

B110310     People  
              v.  
              Buena Vista Mines

Merits:  
Argued by James G. Root, Deputy Attorney General, for appellant and by  
Melvin A. De La Mott, Jr., for respondent. Cause submitted.

Court recessed at 3:20 P.M.

Court reconvened at 3:35 P.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B110529     People  
              v.  
              Peters

Merits:  
Argued by Jean F. Matulis for appellant and by Theresa A. Cochrane,  
Deputy Attorney General, for respondent. Cause submitted.

DIVISION SIX (Continued)

B109323     People  
              v.  
              Santos

Merits:

Argued by Forrest Latiner for appellant and by Theresa A. Cochrane,  
Deputy Attorney General, for respondent. Cause submitted.

Court adjourned at 4:00 P.M.

DIVISION SEVEN

B098164     Cheyovich  
              v.  
              San Marino Unified School Dist.

Filed order denying petition for rehearing.

B112273     People                                 (Not for Publication)  
              v.  
              Garcia

The judgment (order revoking probation) is affirmed.

Neal, J.

We concur: Lillie, P.J.  
              Johnson, J.

B106716     People                                 (Not for Publication)  
              v.  
              Cooper

The judgment is modified to reflect 120 days of good-time/work-time  
credit, and a total of 363 days of pre-sentence custody credit. The  
judgment is affirmed as modified.

Neal, J.

We concur: Lillie, P.J.  
              Johnson, J.

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## DIVISION SEVEN (Continued)

[illegible]

The orders under review are affirmed.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

B099281      Marshall      (Not for Publication)  
v.  
Ralph Edwards Productions

The judgment dismissing the first amended complaint is affirmed. The Respondents are awarded costs on appeal.

Neal, J.

We concur: Johnson, Acting P.J.  
Woods, J.

[illegible]

The judgment is affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion. Appellants shall recover their costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Johnson, J.

## DIVISION SEVEN (Continued)

[illegible]

The Investors' judgment against Torrez and Moran is affirmed insofar as it awards compensatory damages, but reversed insofar as it awards punitive damages. The Alvarezes' judgment against Torrez and Moran is reversed in its entirety. The parties shall bear their own costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Johnson, J.

B108701 People (Certified for Publication)  
v.  
Mendoza

The judgment is modified to stay the term imposed on count I for making a terrorist threat (§ 422) pursuant to section 654. In all other respects the judgment is affirmed.

Johnson, J.

I concur: Lillie, P.J.  
I concur: Woods, J. (Opinion)